

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

IN RE:	)	TERMINATION OF
Robert N. Phelps, Jr., M.D.	)	CONSENT AGREEMENT
	)	
	)	

This document terminates a Consent Agreement effective June 13, 2000, regarding discipline and conditions imposed upon the license to practice medicine in the State of Maine to Robert N. Phelps, Jr., M.D. The parties to that Consent Agreement were: Robert N. Phelps, Jr., M.D. ("Dr. Phelps"), the State of Maine Board of Licensure in Medicine ("the Board"), and the Office of the Attorney General (the "Attorney General").

BACKGROUND

1. On June 13, 2000, the parties entered into a Consent Agreement based upon Dr. Phelps's engaging in sexual misconduct with two patients. The Consent Agreement imposed an indefinite period of probation with conditions, including counseling, a chaperone requirement, and a physician monitor.

2. On December 10, 2013, the Board received a written request from Dr. Phelps to terminate the Consent Agreement. In support of his request, Dr. Phelps cited his compliance with the conditions for over a decade, including the use of chaperones, counseling, and physician monitors. In addition, Dr. Phelps participated in a 12 step program in which he acknowledged the harm his behavior brought to the medical profession and to the patients. Dr. Phelps stated that he had benefitted from the conditions imposed by the Consent Agreement, and expressed his commitment to voluntarily continue using chaperones and undergo physician monitoring.

3. Between December 18 and 30, 2013, the Board received communications from four individuals, three of whom were physicians (including his monitoring physician), in support of Dr. Phelps's request to terminate his Consent Agreement. All of the individuals indicated that they had known Dr. Phelps for some years and that in their opinions Dr. Phelps had demonstrated insight and awareness of the issues that led to his previous boundary violations and had demonstrated a commitment to prevent future similar conduct. Two of the physicians supported releasing Dr. Phelps from the Consent Agreement if Dr. Phelps voluntarily agreed to maintain his supervisory structure and provide a chaperone for all female patients.

4. On January 14, 2014, the Board reviewed Dr. Phelps's written request to terminate the Consent Agreement, his prior compliance with its terms and conditions, his successful practice of medicine thereunder, and the letters in support of Dr. Phelps. Following its review, the Board voted to grant Dr. Phelps's request to terminate the Consent Agreement based upon his compliance with its terms and conditions and his representation that he would voluntarily continue with his physician monitoring and use of a chaperone.

#### COVENANT

5. Dr. Phelps, the Board, and the Office of Attorney General hereby agree to terminate the Consent Agreement dated June 13, 2000.

I, ROBERT N. PHELPS, JR., M.D., HAVE READ AND UNDERSTAND THE FOREGOING TERMINATION TO THE CONSENT AGREEMENT FOR CONDITIONAL LICENSURE AND AGREE WITH ITS CONTENTS AND TERMS. I ACKNOWLEDGE THAT I HAVE HAD THE OPPORTUNITY TO DISCUSS THIS TERMINATION TO THE CONSENT AGREEMENT WITH LEGAL COUNSEL PRIOR TO SIGNING IT.

Dated:

1/30/2014

  
\_\_\_\_\_  
ROBERT N. PHELPS, JR., M.D.

STATE OF MAINE  
BOARD OF LICENSURE IN  
MEDICINE

DATED:

2/11/14

  
\_\_\_\_\_  
MAROULLA S. GLEATON, M.D.,  
Chairman

STATE OF MAINE OFFICE  
OF THE ATTORNEY GENERAL

DATED:

2/11/14

  
\_\_\_\_\_  
DENNIS E. SMITH  
Assistant Attorney General

Effective Date:

2/11/14



STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE  
137 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0137

JOHN ELIAS BALDACCI  
GOVERNOR

EDWARD DAVID, M.D.J.D.  
CHAIRMAN

RANDAL C. MANNING  
EXECUTIVE DIRECTOR

June 17, 2003

Robert N. Phelps, Jr., M.D.  
597 Spruce Head Road  
S. Thomaston, ME 04858

Dear Dr. Phelps:

Pursuant to your request, the Board has authorized this letter to confirm that the proceedings that resulted in the Consent Agreement dated June 13, 2000 did not involve your orthopedic clinical competence.

Very truly yours,

Dan Sprague  
Assistant Executive Director

STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

In re:	)	CONSENT
Robert N. Phelps, Jr., M.D.	)	AGREEMENT

This document is a Consent Agreement, effective when signed by all parties, entered into by Robert N. Phelps, Jr., M.D. ("the Licensee"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of Attorney General, pursuant to 10 M.R.S.A. § 8003(5)(B) and 32 M.R.S.A. § 3282-A.

STATEMENT OF FACTS

1. The Licensee is an orthopedic surgeon who has been licensed to practice medicine in the State of Maine since July 10, 1979.
2. In 1993, Patient A began treating with the Licensee for back problems. In 1996, the doctor—patient relationship changed to a personal and sexual relationship. Eventually, the Licensee referred Patient A to another physician for treatment. The relationship between the Licensee and Patient A has continued and the Licensee is living with Patient A at the present time.
3. In 1997, Patient B became a patient of the Licensee. This relationship became a sexual relationship and continued for several months. The Licensee had sexual encounters with Patient B during office visits. The Licensee ended the relationship in 1998. The patient did not return to the Licensee for treatment after April, 1998.

## AGREEMENT

In lieu of proceeding to an adjudicatory hearing, the Licensee, the Board and the Department of the Attorney General agree to the following:

1. The Licensee agrees that his conduct violated Chapter 10 of the Rules of the Board of Licensure in Medicine regarding sexual misconduct. Sexual misconduct is behavior that exploits the physician—patient relationship in a sexual way. It is non-diagnostic and non-therapeutic. Sexual misconduct constitutes incompetence and unprofessional conduct as defined by 32 M.R.S.A. § 3282-A(2).

2. The Licensee will be on PROBATION INDEFINITELY from the effective date of this agreement with the following conditions:

- (a) The Licensee will continue in counseling in order to understand the issues, which led to his inappropriate behavior, and to develop strategies necessary to prevent recurrence of that behavior. The counseling will take place at a minimum of twice a month and continue for at least two (2) years. It will only be terminated with the therapist's agreement. The therapist or counselor must be approved by the Board. Periodically, the Board will order a reassessment by an independent evaluator who will report to the Board about the Licensee's progress in counseling.
- (b) The Licensee will use a chaperone when seeing female patients in his office.
- (c) The Licensee will be subject to mandatory clinical and professional supervision by a colleague to be approved by the Board. The purpose of the supervision is to ensure that the Licensee is focused on the clinical



aspects of his practice and is dealing appropriately with the ethical issues, which arise in the practice of medicine. The Licensee will meet quarterly with his professional monitor to discuss cases and ethical problems. The monitor will provide quarterly reports to the Board.

- (d) The Licensee agrees to educate himself about the ethical and boundary issues involved in the doctor—patient relationship. The Licensee will document his ongoing education in these matters on his next two applications for renewal of his medical license.

3. The Licensee waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement.

4. The Licensee has been represented by Roger J. Katz, Esq., who has participated in the negotiation of the terms of this agreement.

5. Any substantiated reports to the Board alleging sexual impropriety or misconduct by the Licensee shall result in the immediate, indefinite and automatic suspension of the Licensee's license. The report shall be substantiated by a preliminary determination of validity by the Assistant Attorney General assigned to the Board and Board staff based on information provided to the Board and the Licensee's response to that information. The automatic suspension shall become effective at the time of actual notice from the Board that a reported allegation of sexual impropriety or misconduct has been substantiated. The indefinite, automatic suspension shall continue until the Board holds a hearing on the matter. The hearing will be held as soon as possible after the suspension. If the allegations are proven, the Board will consider revocation of the Licensee's license.

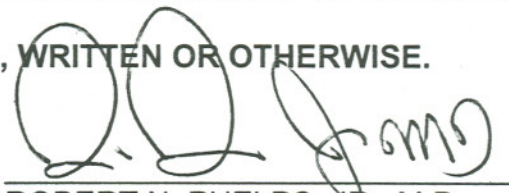
6. The Licensee will notify his patients and the hospitals at which he is affiliated of the terms of this agreement as required by 32 M.R.S.A. § 3282-A.

7. This Consent Agreement can only be amended by a writing signed by all the parties and approved and by the Department of Attorney General. Requests for amendment of the Consent Agreement must be submitted to the Board in writing. The Board will not consider such a request for at least two (2) years from the effective date of this Agreement.

I, ROBERT N. PHELPS, JR., M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT. I UNDERSTAND THAT BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED:

5/22/2000

  
ROBERT N. PHELPS, JR., M.D.

STATE OF MAINE

\_\_\_\_\_, S.S.

Personally appeared before me the above-named Robert N. Phelps, Jr., M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED:

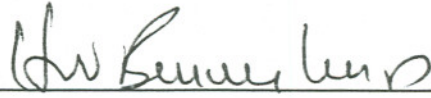
05-22-00

  
NOTARY PUBLIC/ATTORNEY



STATE OF MAINE  
BOARD OF LICENSURE IN MEDICINE

DATED: 6/13/00



STATE OF MAINE  
DEPARTMENT OF THE  
ATTORNEY GENERAL

DATED: 6/13/00

  
RUTH E. McNIFF  
Assistant Attorney General

APPROVED  
EFFECTIVE: 6/13/00